

FINANCE COMMITTEE RECOMMENDATIONS FOR THE NOVEMBER 10, 2008 SPECIAL TOWN MEETING

ARTICLE 1. Reports of Boards and Committees (Select Board)

To see if the Town will hear those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

NO POSITION.

ARTICLE 2. Transfer of Funds – Unpaid Bills (Finance Committee)

To see if the Town will, in accordance with Chapter 44, Section 64, of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.

RECOMMENDATION DEFERRED UNTIL TOWN MEETING.

This is a standard article on all Town Meeting Warrants to allow Town Meeting approval to pay any bills that for any of a variety of reasons were not paid before the books for a fiscal year were closed and for which no funds were encumbered. As of the time this report went to print, none have been brought forward; therefore, we anticipate a motion to dismiss.

ARTICLE 3. Collector Demand Charge (Select Board)

To see if the Town will charge for each written demand issued by the collector a fee of \$10 to be added to and collected as part of the tax, as authorized by Massachusetts General Laws Chapter 60, Section 15, effective as of January 1, 2009.

RECOMMENDED by a Finance Committee vote of 7-0.

Presently, the Town levies a \$5 Demand Charge to real estate, personal property, and motor vehicle excise tax bills that are not paid after 30 days. This fee is used to offset the costs associated with collecting delinquent payments. An outside section of the adopted FY 09 state budget included language allowing municipalities to increase the Demand Charge from \$5 to "not more than \$30"; this fee has not changed since 1987. The Department of Revenue has advised that the amendment in the FY 09 state budget does not include any language indicating that the municipal collector is to determine the actual amount to be charged within the \$30 limit. Therefore, a vote by Town Meeting to set the fee is required. Raising the fee to \$10 as of January 1, 2009 is proposed. This would increase revenue from approximately \$11,000 in FY 08 to \$20,000 in FY 09. The majority of the revenue generated is from delinquent motor vehicle excise tax bills.

10/20/2009

ARTICLE 4. FY 2009 Budget Amendments (Finance Committee)

- A. To see if the Town will amend the budget voted under Article 12 of the 2008 Annual Town Meeting (FY 2009 Operating Budget) to distribute the amount appropriated for FY 09 salary adjustments for Town employees from General Government to Public Safety, Public Works, Planning, Conservation, and Inspections, and Community Services.
- B. To see if the Town will amend the budget voted under Article 12 of the 2008 Annual Town Meeting (FY 2009 Operating Budget) and appropriate \$10,262 for the Transportation Fund and to meet such appropriation \$10,262 be transferred from Transportation Fund Surplus.
- C. To see if the Town will amend the budget voted under Article 12 of the 2008 Annual Town Meeting (FY 2009 Operating Budget) and appropriate \$80,000 for the Solid Waste Fund and to meet such appropriation \$80,000 be transferred from Solid Waste Fund Surplus.

RECOMMENDED by Finance Committee vote of 7-0.

This article includes three motions to amend the current year budget that the Finance Committee determined are appropriate.

Motion A will transfer funds from the General Government budget to the budgets for Public Safety; Public Works; Planning, Conservation and Inspections; and Community Services. When Town Meeting adopted the operating budgets, salary negotiations were under way with the unions representing the Town's employees. A prudent amount was included within the budget to cover any increases that the Town Manager would negotiate. We did not know the amount that would be required for employees working in positions within each of the five municipal functions. Therefore, a lump sum amount was included for all municipal employees within General Government. Except for one bargaining unit, negotiations have been completed with the unions. The funding for these increases can now be transferred to each functional area so that the salary cost is appropriately assigned to each budget.

Motion B will transfer \$10,262 from the Transportation Enterprise Fund surplus to the fund and increase the FY 09 operating budget by that amount. This is necessary because the cost to operate the new outreach Route 32 (Atkins-North Amherst) increased from the original projection. UMass Transit provides this service to the Town via a direct contract at a cost of \$122,260 this year. The additional cost is due to the dramatic increase in fuel costs after UMass Transit prepared its original estimate. The certified fund balance for the Transportation Fund as of July 1, 2008 is \$288,036. The Public Transportation and Bicycle Committee and the Town Manager's Parking Task Force recommended this action as the most appropriate resolution at this point in the year.

Motion C will increase the budget for the Solid Waste Fund for FY 09 by \$80,000 and transfer that amount from the Solid Waste Enterprise Fund surplus to cover this expense. An abutter to the former landfill filed a lawsuit and claimed \$250,000 as damages concerning an alleged nuisance maintained by the Town with regard to the landfill. The plaintiff has agreed to accept \$80,000, far less than what the plaintiff sought, which eliminates the risk of a higher judgment and avoids litigation expense. Normally, this cost would be paid by insurance. Regrettably, the insurance company has gone out of business. The Town is seeking to have the expense paid from a state insurance fund that is established for this purpose. Meanwhile, it is prudent to take this action and conclude the litigation. The certified fund balance for the Solid Waste Fund as of July 1, 2008 was \$393,443.

ARTICLE 5. Stabilization Fund: Appropriate/Transfer from Free Cash (Finance Committee)

To see if the Town will appropriate and transfer \$460,000 from Free Cash in the Undesignated Fund Balance of the General Fund to the Stabilization Fund.

RECOMMENDED by a Finance Committee vote of 7 - 0.

For the fiscal year that ended June 30, spending was \$109,891 under budget and revenue exceeded budget by \$1,325,538, due to a one-time repayment to the General Fund from the Health Care Trust Fund; to increased building permit fees for large projects at Amherst College that won't be repeated; and to additional payments from the University of Massachusetts for fire and ambulance services that in future years will go into the Ambulance Fund. Despite an appropriation of \$400,000 from reserves to balance the adopted FY 09 budget, total reserves have grown by over \$400,000 to \$4,423,405, or about 7.2% of general fund operating revenue.

Last year, after several months of public discussion, the Finance Committee adopted written Financial Management Policies & Objectives for the Town of Amherst. Among other things, this document states that reserves, which comprise the Stabilization Fund and Free Cash, should equal from 5% to 15% of general fund operating revenue. Reserves hit a low of 5.2% at the beginning of FY 06, threatening the Town's good Aa3 bond rating. The Finance Committee urged rebuilding reserves to at least 8% of operating revenue by FY 10. We reluctantly agreed to balance the current year's budget by spending \$400,000 from reserves while a long-term financial plan is developed. We continue to emphasize the importance of building reserves as a cushion against a financial downturn, especially in the current economic climate.

Our written policy on reserves also states that if Free Cash alone exceeds 5% of operating revenue, the excess may be appropriated to the Stabilization Fund. As of July 1, 2008, the Town's state-certified Free Cash balance was \$3,528,863, or 5.7% of operating revenue, and the Stabilization Fund contained \$894,542. We recommend transferring \$460,000, roughly the amount above the 5% guideline, from Free Cash into Stabilization.

It takes only a simple majority of Town Meeting to appropriate money from Free Cash. Appropriations from the Stabilization Fund require a two-thirds vote. Building the Stabilization Fund encourages the fiscal restraint that is especially necessary now.

ARTICLE 6. Establishment of Municipal Housing Trust (Housing Partnership/Fair Housing Committee)

To see if the Town will vote to accept G.L. c.44, §55C, and establish a Municipal Affordable Housing Trust to be known as the Amherst Affordable Housing Trust Fund, whose purpose shall be to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households, and further to amend the General Bylaws of the Town by inserting a new Bylaw in Article IV to be entitled "Amherst Affordable Housing Trust Fund," as follows:

AMHERST AFFORDABLE HOUSING TRUST FUND

1. There shall be a Board of Trustees of the Amherst Affordable Housing Trust Fund, composed of seven members, of whom at least one shall be a member of the Select Board, at least one shall be the Town Manager, and at least two shall be members of the Housing Partnership/Fair Housing Committee. The Select Board shall appoint the Trustees for terms not to exceed two years, except

that two of the initial trustee appointments shall be for a term of one year, provided said Trustees may be re-appointed at the discretion of the Select Board. Vacancies shall be filled by the Select Board for the remainder of the unexpired term. Any member of the Board of Trustees may be removed by the Select Board for cause after the opportunity of a hearing.

- 2. The Trustees are hereby authorized to execute a Declaration of Trust and Certificate of Trust for the Amherst Affordable Housing Trust to be recorded with Hampshire District Registry of Deeds and filed with Hampshire Registry District of the Land Court.
- 3. The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c. 44, § 55C, shall include the following:
 - a. to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from G.L. c. 44B;
 - b. to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
 - c. to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
 - d. to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
 - e. to employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
 - f. to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
 - g. to apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
 - h. to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
 - to deposit any security with any protective reorganization committee, and to delegate to such
 committee such powers and authority with relation thereto as the Board may deem proper and
 to pay, out of Trust property, such portion of expenses and compensation of such committee as
 the Board may deem necessary and appropriate;

- j. to carry property for accounting purposes other than acquisition date values;
- k. to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;
- 1. to make distributions or divisions of principal in kind;
- m. to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;
- n. to manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;
- o. to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and
- p. to extend the time for payment of any obligation to the trust.
- 4. The Board of Trustees shall provide for an annual audit of the books and records of the Trust. Such audit shall be performed by an independent auditor in accordance with accepted accounting practices. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Select Board.

Or take any other action relative thereto

RECOMMENDED Finance Committee vote of 7-0

The establishment of a Municipal Housing Trust, while having minor administrative setup costs, would generally allow for greater flexibility in the execution of affordable housing projects. This flexibility affords the opportunity to work on projects in a time frame that is best suited for the project and not bound to the constraints of Town Meeting appropriations. Therefore, the potential exists to save money on these projects. Additionally, CPA funds may be set aside in this Trust without a specific project identified, thus allowing Town Meeting the opportunity to steadily support affordable housing with CPA funds. Although the trust accounts would be monitored and controlled by the Town treasurer, it is the opinion of Town Counsel that the Town is not liable for the obligations of the Trust.

ARTICLE 7. Zoning Bylaw - Duplexes in R-G & R-VC (Planning Board)

To see if the Town will amend Section 3.321, Two family detached dwelling, of the Zoning Bylaw by changing the permit requirement in the R-G and R-VC Districts from Special Permit (SP) to Site Plan Review (SPR) and by adding the following new language under Standards and Conditions:

In all districts, the Special Permit Granting Authority or Permit-Granting Board, as applicable, shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of a new two family detached dwelling or the addition of a

single new dwelling unit to an existing single family residence such that a two family detached dwelling is created.

NO RECOMMENDATION.

This would change the permit requirement for a two family detached dwelling from a special permit to site plan review in the general residence and residential village center districts and require the permitting authority to apply the design standards and principles established for the Design Review Board. It could potentially increase residential density in these districts, and is consistent with the recommendations in the draft master plan. However, this is a policy decision to be voted by Town Meeting.

ARTICLE 8. Zoning Bylaw - B-G & B-VC Residential Density (Planning Board)

To see if the Town will amend Sections 3.322, 3.323, and footnote b. of Table 3, Dimensional Regulations of the Zoning Bylaw, by deleting the lined out language and adding the language in *bold italics*, as follows:

- **A.** Amend footnote b. of Table 3, Dimensional Regulations, as follows:
 - b. Applies to Residences Uses only (Section 3.32). In the B-G and B-VC districts, the Basic Minimum Lot Area shall apply only to the first dwelling unit on the ground floor of subdividable dwellings and converted dwellings. For townhouses, apartments, buildings containing dwelling units in combination with stores or other permitted commercial uses, and other permitted multi-unit residential uses in these districts, the Basic Minimum Lot Area and Additional Lot Area requirements shall not apply. For a Section 3.325 use, or any other use in the districts where all residential dwelling units are located on upper floors, no Basic Minimum Lot Area shall be required and the Additional Lot Area/Family requirement shall apply to all dwelling units.
- **B.** Amend Section 3.322, Town House:

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Zoning Board of Appeals Permit Granting Board or Special Permit Granting Authority shall be included as an integral part of any application made under this section. All dimensional regulations in Article 6 shall be observed. In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.

C. Amend Section 3.323:

No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms). A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Zoning Board of Appeals Permit Granting Board or Special Permit Granting Authority shall be included as an integral part of any application under this section. In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.

RECOMMENDED by a vote of 7-0.

Part A eliminates the minimum lot area requirements for residential units not on the ground floor of mixed use buildings (e.g., stores and residential units) in the General Business and Business Village Center districts.

Parts B and C update language by replacing Zoning Board of Appeals with Permit Granting Board or Special Permit Granting Authority, which is the current terminology used elsewhere in the bylaws, and require the permitting board or authority to apply the design standards and principles established for the Design Review Board.

These changes would allow for greater flexibility in the creation of residential units, thereby increasing residential density in the downtown and village center business districts. It would also contribute to the vitality of these areas and potentially increase property tax revenue to the town. These changes are consistent with the recommendations in the draft master plan to increase density in these districts. The Finance Committee supports changes that are necessary from time to time in order to assure that the Bylaws comply with current needs, and avoid inconsistencies.

ARTICLE 9. Zoning Bylaw - Recreation Facilities (**Planning Board**)

To see if the Town will amend Sections 3.315, 4.570, 10.397, 11.2403, and Article 12 of the Zoning Bylaw, by adding the language in *bold italics*, as follows:

- A. Amend Article 12 by adding the following language as Section 12.27, and renumbering the remaining sections as appropriate:
- 12.27 Recreation: The refreshment of body and mind through active or passive forms of play, amusement, engaged study, contemplation or relaxation.
- 12.270: Recreation, Active: Indoor or outdoor leisure activity involving the physically active use of the body, whether undertaken by individuals (hiking, running, bicycling, skiing, climbing, etc.) or involving organized participatory activity with others, specialized equipment, and occurring at prescribed sites, fields, courses, structures, or buildings developed or improved for that purpose. Active recreation uses include but are not limited to golf courses, playgrounds, tot lots, skateboarding parks, courts for tennis and other court games, swimming pools, and fields for team sports such as baseball, soccer, basketball, football, lacrosse, Ultimate Frisbee, and similar activities. Active recreation may involve motorized or non-motorized vehicles.
- 12.271: Recreation, Outdoor: Leisure activity which may be either active or passive recreation, occurring outdoors. Outdoor recreation uses may be either commercial or non-commercial in nature. Outdoor recreational uses may involve either minimal or extensive improvements or development of sites, structures, and buildings, and may include outdoor amusement facilities, fields, rides, racing or riding tracks, campground facilities, golf courses, miniature golf facilities, shooting ranges, hunting or fishing preserves, and similar uses. Non-commercial outdoor recreation uses include but are not limited to hiking, camping, bicycling, bird watching and other nature study, rock-climbing, boating, horseback riding, skiing, snowmobiling, picnicking, etc. For the purposes of this Bylaw, outdoor recreation shall be considered to include traditional consumptive forms of outdoor recreation including but not limited to hunting, fishing, trapping, gathering, and similar activities.
- 12.272: Recreation, Passive: Leisure activity involving moderate physical activity, the use of improved or unimproved sites, structures, or buildings, and which may involve observation of nature or other study.

Examples include but are not limited to seating areas, picnicking, hiking, bird watching or other nature study, and similar uses.

- B. Amend Article 12 by adding the following language as Section 12.38 (or the appropriate section in alphabetical order), and renumbering the remaining sections as appropriate:
- 12.38 Usable Open Space: Open land, including but not limited to required common land, that is provided, improved and maintained for active or passive recreation in association with residential uses or development methods under this Bylaw, and which is accessible for the use of all residents of a residential use or development, and/or members of the public. Usable open space shall be contiguous areas of sufficient size to support their proposed use(s), and may be developed and available for play areas, seating or picnicking areas, tot lots, gardens, off-road trails (including but not limited to hiking, jogging, bridle and bicycle trails, as well as those paths and easements which provide access or connection to such trails, regardless of location), ball or playing fields, basketball or tennis courts or similar facilities as are appropriate. Usable open space shall not include parking areas, roadways, sidewalks, private yards or land within wetlands as determined by the Conservation Commission, except as hereinafter provided, and may include areas that are substantially undeveloped and free of structures. Except as may be otherwise provided for in this Bylaw, undeveloped land areas (ex., wetlands) that are inaccessible on foot or otherwise may constitute no more than twenty-five percent (25%) of the total area of usable open space provided for the purpose of any permit under this Bylaw.
- C. Amend Sections 10.397 and 11.2403, as follows
- 10.397 The proposal provides adequate recreational facilities, open space and amenities for the proposed use. Except in the B-G and B-VC districts, or as may be otherwise required in this Bylaw, all residential uses or developments containing a total of four or more dwelling units shall provide a minimum of 1,000 square feet of usable open space for active or passive recreation per dwelling unit. The Special Permit Granting Authority may allow up to fifty percent (50%) of this requirement to be met by existing active or passive off-site recreational facilities located within 1,000 feet of the subject property and capable of being readily and safely accessed on foot.
- Provision of adequate recreational facilities, open space and amenities. Except in the B-G and B-VC districts, or as may be otherwise required in this Bylaw, all residential uses or developments containing a total of four or more dwelling units shall provide a minimum of 1,000 square feet of usable open space for active or passive recreation per dwelling unit. The Permit Granting Board may allow up to fifty percent (50%) of this requirement to be met by existing active or passive off-site recreational facilities located within 1,000 feet of the subject property and capable of being readily and safely accessed on foot.
- D. Amend the title of Section 3.315 to read:
- 3.315 Outdoor *commercial* recreational use
- E. Amend Section 4.570 by removing the phrase "and/or wetlands" from the last sentence.

Parts A, B, D and E: RECOMMENDED by a vote of 7-0.

Parts A, B and D add definitions and examples for words and phrases already in the Zoning Bylaw. Part E eliminates an existing ambiguity in Section 4.570 of the Zoning Bylaw by removing a phrase. By clarifying what is and is not allowed under the Zoning Bylaw, these changes will save time and effort for

Town staff and volunteer boards charged with interpreting it, and for developers and others wanting to make changes on their property.

Part C: NO RECOMMENDATION.

Part C would, except in the General Business and Village Center districts, require specific amounts of open space for recreation for residential uses or developments of four or more dwelling units. It is difficult to quantify any financial impact, either positive or negative, for the town.

ARTICLE 10. Zoning Bylaw & Map- Professional Offices in Light Industrial District (Planning Board)

A. To see if the Town will amend Section 3.358.1, Technical or professional office, of the Zoning Bylaw by changing the permit requirement in the Light Industrial (LI) District from N (No) to SP (Special Permit), as follows:

3.358.1 Technical or professional office such as architect, engineer, lawyer, financial services, or similar office providing services predominantly by appointment to the public in person on the premises

For the purposes of this section, the public shall be defined as including all persons acting as customers or clients receiving services. "Predominantly by appointment" shall mean that a majority of customers or clients who are provided services in person on the premises during any extended period of operation (monthly, quarterly, or annually) shall do so through prior appointment. Exceptions shall be discretionary follow-up visits by customers or clients with regard to services already provided, visits by affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. Office uses under this section shall advertise their on-premises services as being available to the general public only by appointment.

- **B.** To see if the Town will amend the Official Zoning Map by changing the zoning designation on the following properties in the following manner:
 - Map 11D, Parcel 183 Extending the LI District into the north and northwest portions of the property, currently zoned R-G, such that the entire property is within the LI District.
 - Map 14B, Parcel 48 Rezoning the eastern end of the property from LI to R-G, such that the entire property is within the R-G District.

RECOMMENDED by a Finance Committee vote of 7 - 0.

- A. The proposed change to the existing Zoning Bylaw will change the permit requirement for the Light Industrial District from NO to Special Permit which will potentially allow for additional usage of the property.
- B. The boundary changes for the zoning districts will align the district lines with the property lines thus placing all of Parcel 183 within the LI District and all of Parcel 48 within the R-G District.

The Finance Committee supports changes that are necessary from time to time in order to assure that the Bylaws comply with current needs, and avoid inconsistencies. The changes requested align zoning district and property lines for two properties, and modestly expand the allowable uses for the LI district, which ultimately may produce higher property values and revenues.

ARTICLE 11. Larch Hill Article 97 (Hitchcock Center) (TBD)

To see if the Town will vote pursuant to G.L. c. 40, §15A to transfer the care, custody, management and control of all or a portion of the following described parcel of land from the Conservation Commission for conservation purposes to the Conservation Commission for conservation purposes and for the purpose of leasing for environmental education, which parcel of land is shown as "Parcel A" on a sketch plan on file with the Town Clerk, and is a portion of the Town-owned land known as "Larch Hill" and described more particularly in a deed recorded with the Hampshire District Registry of Deeds in Book 1743, Page 250, together with use of the access easement appurtenant to said land; and to authorize the Select Board to seek legislative approval for such transfer and lease under Article 97 of the Amendments to the Massachusetts Constitution; such transfer to become effective when the Conservation Commission determines that Parcel A is no longer needed solely for conservation purposes and upon the enactment of said Article 97 legislation; or to take any action relative thereto.

RECOMMENDED by a Finance Committee vote of 7 - 0.

This article, while having negligible financial implications itself, lays the groundwork for subsequent actions which may have positive financial impact for the Town (e.g., reduced/eliminated liability for the current building's exterior, increased tourism to the Town, etc.). The Finance Committee recommends this article on that basis; however, we do not have a position at this time on any potential subsequent actions that may result from this first step. Any subsequent actions will be judged on their own merit at the time they are presented to the committee.

Finance Committee Members:

We invite your questions and views about Town money matters.

Marilyn Blaustein	253-5963
Barry Federman	253-4009
Kay Moran, Vice Chair	549-5767
Brian Morton, Chair	549-4161
Douglas Slaughter	253-9920
Andrew Steinberg	549-6826
Marylou Theilman	253-7980